



House of Representatives

File No. 673

General Assembly

February Session, 2018

(Reprint of File No. 637)

Substitute House Bill No. 5429
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
May 3, 2018

**AN ACT CONCERNING INCREASED PENALTIES FOR CERTAIN
CIGARETTE AND TOBACCO TAX VIOLATIONS, A CONTINUING
EDUCATION OPTION FOR CERTAIN EMBALMERS OR FUNERAL
DIRECTORS AND THE IMPOSITION OF THE TOBACCO PRODUCTS
TAX ON CIGARS.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 12-285c of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2018*):

3 (a) No person engaged in the business of selling cigarettes shall ship
4 or transport or cause to be shipped or transported any cigarettes to any
5 person in this state except to: (1) A cigarette distributor or dealer; (2) an
6 export warehouse proprietor pursuant to Chapter 52 of the Internal
7 Revenue Code of 1986, or any subsequent corresponding internal
8 revenue code of the United States, as amended from time to time,
9 [amended,] or an operator of a customs bonded warehouse pursuant
10 to 19 USC 1311 or 1555; or (3) a person who is an officer, employee or
11 agent of the United States Government, this state or a department,
12 agency, instrumentality or political subdivision of the United States or

13 of this state, when such person is acting in accordance with such
14 person's official duties. Notwithstanding the provisions of section 12-
15 15, the Commissioner of Revenue Services shall publish on the Internet
16 web site of the Department of Revenue Services a list of every cigarette
17 distributor or dealer. As used in this subsection, "cigarette distributor
18 or dealer" means a person licensed as a cigarette distributor under
19 section 12-288 or licensed as a dealer under section 12-287 or a person
20 whose name appears on a list of licensed distributors and dealers
21 published by the Commissioner of Revenue Services.

22 (b) No common or contract carrier shall knowingly transport
23 cigarettes to a residential dwelling or to any person in this state who
24 the common or contract carrier reasonably believes is not a person
25 described in subdivisions (1) to (3), inclusive, of subsection (a) of this
26 section. No person other than a common or contract carrier shall
27 knowingly transport cigarettes to any person in this state who is not a
28 person described in subdivisions (1) to (3), inclusive, of subsection (a)
29 of this section.

30 (c) When a person engaged in the business of selling cigarettes ships
31 or transports or causes to be shipped or transported any cigarettes to
32 any described person in this state, other than in the cigarette
33 manufacturer's original container or wrapping, the container or
34 wrapping shall be plainly and visibly marked with the word
35 "cigarettes". Any person engaged in the business of selling cigarettes
36 who ships or causes to be shipped any cigarettes to any described
37 person in this state (1) shall require, as a condition of delivery, [that]
38 the customer who is receiving the cigarettes [shall] to sign an
39 acknowledgment of receipt and provide proper proof of age, and (2)
40 may not sell such cigarettes to such customer unless such proof of age
41 is provided. For purposes of this subsection, "described person" means
42 a person described in subdivisions (1) to (3), inclusive, of subsection (a)
43 of this section.

44 (d) Whenever any cigarettes have been or are being shipped or
45 transported in violation of this section, such cigarettes are declared to

46 be contraband goods and the confiscation, search and forfeiture
47 provisions of section 12-305 shall apply.

48 (e) Any person who violates the provisions of this section shall be
49 guilty of a class A misdemeanor and, for a second or subsequent
50 violation, shall be guilty of a class [D] C felony.

51 (f) The Commissioner of Revenue Services may impose a civil
52 penalty of not more than [five] ten thousand dollars for each violation
53 of this section. For purposes of this subsection, each shipment or
54 transport of cigarettes shall constitute a separate violation. The
55 Attorney General, upon request of the commissioner, may bring an
56 action in the superior court for the judicial district of Hartford to
57 collect such civil penalty and for any injunctive or equitable relief. In
58 any action brought by the Attorney General to enforce the provisions
59 of section 12-285b or this section, the state shall be entitled to recover,
60 when it is the prevailing party, the costs of investigation, expert
61 witness fees, costs of the action, and reasonable attorneys' fees.

62 Sec. 2. Subsection (e) of section 12-286 of the general statutes is
63 repealed and the following is substituted in lieu thereof (*Effective July*
64 *1, 2018*):

65 (e) (1) Any person who knowingly sells, offers for sale or possesses
66 with intent to sell any cigarettes, without a license as provided in this
67 chapter, shall be fined not more than [five hundred] one thousand
68 dollars or imprisoned for not more than [three] six months, or both, for
69 each offense. Each day of such unauthorized operation may be deemed
70 a separate offense. The provisions of this subdivision shall not apply to
71 any person whose dealer's license has expired, provided the period of
72 operation without such license is not more than ninety days after the
73 date of expiration.

74 (2) Any person who knowingly sells at retail, offers for sale at retail
75 or possesses with intent to sell at retail any taxed tobacco products, as
76 defined in section 12-330a, without a dealer's license as provided in
77 this chapter, shall be fined not more than [five hundred] one thousand

78 dollars or imprisoned for not more than [three] six months, or both, for
79 each offense. Each day of such unauthorized operation may be deemed
80 a separate offense. The provisions of this subdivision shall not apply to
81 any person whose dealer's license has expired, provided the period of
82 operation without such license is not more than ninety days from the
83 date of expiration.

84 (3) Any person whose dealer's license has expired and who
85 knowingly sells at retail, offers for sale at retail or possesses with intent
86 to sell at retail any cigarettes or taxed tobacco products, as defined in
87 section 12-330a, where such person's period of operation without such
88 license is not more than ninety days from the date of expiration of such
89 license, [shall have committed an infraction and] shall be fined [ninety]
90 three hundred fifty dollars.

91 Sec. 3. Section 12-304 of the general statutes is repealed and the
92 following is substituted in lieu thereof (*Effective July 1, 2018*):

93 (a) (1) No [distributor shall sell, and no other] person shall sell, offer
94 for sale, display for sale, transport for sale or possess with intent to
95 sell, any cigarettes (A) which do not bear stamps evidencing the
96 payment of the tax imposed by this chapter, or (B) the stamping of
97 which is prohibited by subsection (b) of section 12-302 or subsection
98 (b) of section 12-303, provided a licensed dealer may keep on hand, at
99 the location for which such dealer's license is issued, unstamped
100 cigarettes, other than cigarettes, the stamping of which is prohibited by
101 subsection (b) of section 12-303, for a period not exceeding twenty-four
102 hours. Any unstamped cigarettes in the possession of a licensed dealer
103 shall be presumed to have been held by such dealer for more than
104 twenty-four hours unless proof is shown to the contrary.

105 (2) Except as provided in subdivision (3) of this subsection, any
106 person who knowingly violates any provision of subdivision (1) of this
107 subsection shall be [fined not more than one thousand dollars or
108 imprisoned not more than one year or both] subject to the following
109 penalties: (A) If the violation involves one thousand or fewer

110 unstamped cigarettes, such person shall be fined not more than one
111 thousand dollars or imprisoned for not more than one year, or both;
112 (B) if the violation involves more than one thousand but fewer than
113 twenty thousand unstamped cigarettes, such person shall be fined not
114 more than one dollar per cigarette or imprisoned for not more than one
115 year, or both; and (C) if the violation involves twenty thousand or
116 more unstamped cigarettes, such person shall be fined not more than
117 one dollar fifty cents per cigarette or imprisoned for not more than five
118 years, or both.

119 (3) Any licensed dealer who knowingly violates any provision of
120 subdivision (1) of this subsection [shall have committed an infraction
121 and] shall be fined [ninety] three hundred fifty dollars, provided (A)
122 the quantity of unstamped cigarettes in the possession of such dealer
123 does not exceed [six hundred] one thousand cigarettes, and (B) it is
124 such dealer's first violation of the provisions of this subsection.

125 (b) [(1)] Any person, whether or not previously convicted of a
126 violation of any provision of this section, [who possesses, transports
127 for sale, sells or offers for sale twenty thousand or more cigarettes, (A)
128 subject to the tax imposed by this chapter in any unstamped or
129 unlawfully packaged stamped packages, or (B) the stamping of which
130 is prohibited by subsection (b) of section 12-302 or subsection (b) of
131 section 12-303, and (2) any person, whether or not previously
132 convicted of violation of any provision of this section,] who wilfully
133 attempts to evade the taxes imposed by this chapter or the payment
134 thereof on twenty thousand or more cigarettes, shall be guilty of a class
135 [D] C felony.

136 Sec. 4. Subsection (b) of section 12-306b of the general statutes is
137 repealed and the following is substituted in lieu thereof (*Effective July*
138 *1, 2018*):

139 (b) Any person who wilfully delivers or discloses to the
140 commissioner or [his] the commissioner's authorized agent any list,
141 report, account, statement, or other document, known by [him] such

142 person to be fraudulent or false in any material matter, shall, in
143 addition to any other penalty provided by law, be guilty of a class [D]
144 C felony. No person shall be charged with an offense under both
145 subsections (a) and (b) of this section in relation to the same tax period
146 but such person may be charged and prosecuted for both such offenses
147 upon the same information.

148 Sec. 5. Subsection (a) of section 12-314 of the general statutes is
149 repealed and the following is substituted in lieu thereof (*Effective July*
150 *1, 2018*):

151 (a) (1) The sale of cigarettes other than in an unopened package
152 containing twenty or more cigarettes originating with the
153 manufacturer [which] that bears the health warning required by law is
154 prohibited. Any cigarettes sold other than as specified under this
155 subdivision shall be deemed contraband and shall be subject to
156 confiscation.

157 (2) If the Commissioner of Revenue Services finds, after a hearing,
158 that any [dealer or distributor] person has violated the provisions of
159 this subsection, said commissioner may assess such person a civil
160 penalty of [fifty] one hundred fifty dollars for a first offense, [two
161 hundred fifty] five hundred dollars for a second offense and [five
162 hundred] one thousand dollars for a third or subsequent offense. Such
163 penalty may be in addition to any other penalty provided by law,
164 including, but not limited to, the suspension or revocation, if such
165 person is a licensed dealer or distributor, of [the] such license [of such
166 dealer or distributor] pursuant to section 12-295. Any person aggrieved
167 by any action of said commissioner pursuant to this subsection may
168 take an appeal of such action as provided in sections 12-311 and 12-
169 312.

170 Sec. 6. Section 12-330f of the general statutes is repealed and the
171 following is substituted in lieu thereof (*Effective July 1, 2018*):

172 (a) Any person, other than a licensed distributor or a licensed
173 unclassified importer, who knowingly manufactures, purchases,

174 imports, receives or acquires any tobacco products upon which no tax
175 has been paid in accordance with the provisions of this chapter, shall
176 be fined not more than [five hundred] seven hundred fifty dollars or
177 imprisoned for not more than three months, or both, for each offense.
178 Each day of any such unauthorized operation may be deemed a
179 separate offense.

180 (b) No distributor or unclassified importer shall sell, offer for sale,
181 display for sale or possess with intent to sell, any tobacco products
182 upon which no tax has been paid in accordance with the provisions of
183 this chapter, provided a licensed distributor or unclassified importer
184 may keep on hand, at the location for which [his] such distributor's or
185 importer's license is issued, tobacco products upon which no such tax
186 has been paid for a period not exceeding forty-one days. Any tobacco
187 products in the possession of a distributor or unclassified importer
188 shall be presumed to have been held by [him] such distributor or
189 importer for more than forty-one days unless proof is shown to the
190 contrary. Any person who knowingly violates any provision of this
191 subsection shall be fined not more than one thousand dollars or
192 imprisoned not more than one year, or both.

193 (c) (1) Any person, whether or not previously convicted of violation
194 of any provision of this section, who transports for sale, sells or offers
195 for sale tobacco products upon which a tax of two thousand five
196 hundred dollars or more would be due under the provisions of this
197 chapter, but upon which no tax has been paid, and (2) any person,
198 whether or not previously convicted of violation of any provision of
199 this section, who wilfully attempts to evade the taxes imposed by this
200 chapter, or the payment thereof on tobacco products upon which a tax
201 of two thousand five hundred dollars or more would be due but upon
202 which no tax has been paid, shall be guilty of a class [D] C felony.

203 Sec. 7. Section 12-330j of the general statutes is repealed and the
204 following is substituted in lieu thereof (*Effective July 1, 2018*):

205 (a) Any person required under this chapter to pay any tax or to

206 make a report, keep any records or supply any information, who
207 wilfully fails to pay such tax, make such report, keep such records, or
208 supply such information, at the time required by law or regulations,
209 shall, in addition to any other penalty provided by law, be fined not
210 more than one thousand dollars or imprisoned not more than one year,
211 or both. Notwithstanding the provisions of section 54-193, no person
212 shall be prosecuted for a violation of the provisions of this subsection
213 committed on or after July 1, 1997, except within three years next after
214 such violation has been committed. As used in this section, "person"
215 includes any officer or employee of a corporation or a member or
216 employee of a partnership under a duty to pay such tax, to make such
217 report, keep such records or supply such information.

218 (b) Any person who wilfully delivers or discloses to the
219 commissioner or [his] the commissioner's authorized agent any list,
220 report, account, statement, or other document, known by [him] such
221 person to be fraudulent or false in any material matter, shall, in
222 addition to any other penalty provided by law, be guilty of a class [D]
223 C felony. No person shall be charged with an offense under both
224 subsections (a) and (b) of this section in relation to the same tax period
225 but such person may be charged and prosecuted for both such offenses
226 upon the same information.

227 Sec. 8. Subsection (a) of section 53-394 of the 2018 supplement to the
228 general statutes is repealed and the following is substituted in lieu
229 thereof (*Effective July 1, 2018*):

230 (a) "Racketeering activity" means to commit, to attempt to commit,
231 to conspire to commit, or to intentionally aid, solicit, coerce or
232 intimidate another person to commit any crime which, at the time of its
233 commission, was a felony chargeable by indictment or information
234 under the following provisions of the general statutes then applicable:
235 (1) Sections 53-278a to 53-278f, inclusive, relating to gambling activity;
236 (2) chapter 949a, relating to extortionate credit transactions; (3) chapter
237 952, part IV, relating to homicide; (4) chapter 952, part V, relating to
238 assault, except assault with a motor vehicle as defined in section 53a-

239 60d; (5) sections 53a-85 to 53a-88, inclusive, relating to prostitution; (6)
240 chapter 952, part VII, relating to kidnapping; (7) chapter 952, part VIII,
241 relating to burglary, arson and related offenses; (8) chapter 952, part
242 IX, relating to larceny, robbery and related offenses; (9) chapter 952,
243 part X, relating to forgery and related offenses; (10) chapter 952, part
244 XI, relating to bribery and related offenses; (11) chapter 952, part XX,
245 relating to obscenity and related offenses; (12) chapter 952, part XIX,
246 relating to coercion; (13) sections 53-202, 53-206, 53a-211 and 53a-212,
247 relating to weapons and firearms; (14) section 53-80a, relating to the
248 manufacture of bombs; (15) sections 36b-2 to 36b-34, inclusive, relating
249 to securities fraud and related offenses; (16) sections 21a-277, 21a-278
250 and 21a-279, relating to drugs; (17) section 22a-131a, relating to
251 hazardous waste; (18) chapter 952, part XXIII, relating to money
252 laundering; (19) section 53a-192a, relating to trafficking in persons; or
253 (20) [subdivision (1) of] subsection (b) of section 12-304, as amended by
254 this act, or section 12-308, relating to cigarettes, or subsection (c) of
255 section 12-330f, as amended by this act, or subsection (b) of section 12-
256 330j, as amended by this act, relating to tobacco products.

257 Sec. 9. Section 20-227a of the 2018 supplement to the general statutes
258 is repealed and the following is substituted in lieu thereof (*Effective*
259 *from passage*):

260 (a) Notwithstanding the provisions of sections 20-213, 20-217 and
261 20-227, the Connecticut Board of Examiners of Embalmers and Funeral
262 Directors and the Department of Public Health shall not take any
263 disciplinary action pursuant to section 20-227 against a licensed
264 embalmer or funeral director who received notification on or before
265 October 1, 2017, that the licensee's score on the national board
266 examination was invalidated as a result of the invalidation of such
267 score if the licensee (1) retakes and successfully completes the
268 prescribed examination not later than October 1, 2018, or (2) completes
269 forty-five hours of continuing education and submits certificates of
270 course completion to the department on or before July 1, 2019. The
271 hours of continuing education under this subsection shall be in
272 addition to the hours required under section 20-219a.

273 (b) At least six of the hours under subdivision (2) of subsection (a) of
274 this section shall be in the area of ethics. The remaining hours shall be
275 in areas related to the licensee's practice, including, but not limited to,
276 bereavement care, business management and administration, religious
277 customs and traditions related to funerals, cremation services,
278 cemetery services, natural sciences, preneed services, restorative arts
279 and embalming, counseling, funeral service merchandising, sanitation
280 and infection control, organ donation or hospice care. The continuing
281 education under said subdivision shall consist of courses offered or
282 approved by the Academy of Professional Funeral Service Practice,
283 educational offerings by a hospital or other licensed health care
284 institution or courses offered by a regionally accredited institution of
285 higher education.

286 (c) Any affected licensee who fails to successfully complete the
287 examination on or before October 1, 2018, or fails to complete the
288 hours of continuing education under subdivision (2) of subsection (a)
289 of this section on or before July 1, 2019, shall have his or her license to
290 practice as an embalmer or funeral director annulled, subject to the
291 provisions of section 4-182.

292 Sec. 10. Section 12-330c of the 2018 supplement to the general
293 statutes is repealed and the following is substituted in lieu thereof
294 (*Effective July 1, 2018*):

295 (a) (1) A tax is imposed on all untaxed tobacco products held in this
296 state by any person. Except as otherwise provided in [subdivision]
297 subdivisions (2) and (3) of this subsection, [with respect to the tax on
298 cigars, or in subdivision (3) of this subsection with respect to the rate of
299 tax on snuff tobacco products,] the tax shall be imposed at the rate of
300 fifty per cent of the wholesale sales price of such products.

301 (2) Notwithstanding the provisions of subdivision (1) of this
302 subsection, in the case of cigars the tax shall not exceed fifty cents per
303 cigar.

304 (3) The tax shall be imposed on snuff tobacco products, on the net

weight as listed by the manufacturer, as follows: Three dollars per ounce of snuff and a proportionate tax at the like rate on all fractional parts of an ounce of snuff.

(b) [Such] (1) Except as provided in subdivision (2) of this subsection, such tax shall be imposed on the distributor or the unclassified importer at the time the tobacco product is manufactured, purchased, imported, received or acquired in this state.

(2) Cigars owned by a distributor that are located on the premises of a person who performs fulfillment services in this state for such distributor and (A) are exported from this state shall not be subject to the tax imposed by this chapter, or (B) are shipped, delivered or otherwise transferred to a Connecticut address shall be subject to the tax imposed by this chapter and such tax shall be imposed on the date of such shipment, delivery or transfer and paid with, and reported by such distributor on, the return prescribed under section 12-330d that corresponds to the month such shipment, delivery or transfer occurred. For purposes of this subdivision, "fulfillment services" means services that are performed by a person on the premises of such person on behalf of a distributor and that involve the receipt of orders from such distributor or an agent thereof, which orders are to be filled by the person from an inventory of cigars that are offered for sale by such distributor, and the shipment of such orders to customers of such distributor.

(3) The commissioner may require the person who performs fulfillment services to file a quarterly informational return with the commissioner with respect to cigars located on the premises of such person, containing such information as the commissioner may prescribe.

(c) Such tax shall not be imposed on any tobacco products that (1) are exported from [the] this state, or (2) are not subject to taxation by this state pursuant to any laws of the United States.

(d) Any tax imposed under this chapter shall be reduced by fifty per

337 cent for any product the Secretary of the United States Department of
 338 Health and Human Services determines to be a modified risk tobacco
 339 product pursuant to 21 USC 387k, as amended from time to time.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2018</i>	12-285c
Sec. 2	<i>July 1, 2018</i>	12-286(e)
Sec. 3	<i>July 1, 2018</i>	12-304
Sec. 4	<i>July 1, 2018</i>	12-306b(b)
Sec. 5	<i>July 1, 2018</i>	12-314(a)
Sec. 6	<i>July 1, 2018</i>	12-330f
Sec. 7	<i>July 1, 2018</i>	12-330j
Sec. 8	<i>July 1, 2018</i>	53-394(a)
Sec. 9	<i>from passage</i>	20-227a
Sec. 10	<i>July 1, 2018</i>	12-330c

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 19 \$	FY 20 \$
Resources of the General Fund	GF - Potential Revenue Gain	Less than 20,000	Less than 20,000
Department of Revenue Services	GF - Revenue Gain	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill increases various cigarette sale violations, which are anticipated to result in a revenue gain of less than \$20,000 annually from fines beginning in FY 19. In FY 17, 76 violations resulted in total fine revenue of approximately \$17,000. The bill also results in a potential minimal cigarette and tobacco tax revenue gain to the extent that the increased penalties reduce illegal cigarette and tobacco sales and increase legal sales.

House "A" does not result in a fiscal impact to the state or municipalities. **Section 1** makes changes to embalmer/funeral director requirements, which are not anticipated to alter the number of individuals licensed by the Department of Public Health. **Section 2** clarifies the exemption process for certain tobacco taxes.

The Out Years

The revenue gain from increased fines and legal sales identified above is anticipated to continue into the future.

OLR Bill Analysis**sHB 5429 (as amended by House "A")******AN ACT CONCERNING THE DEPARTMENT OF REVENUE SERVICES' RECOMMENDATIONS FOR INCREASED PENALTIES FOR CERTAIN CIGARETTE AND TOBACCO TAX VIOLATIONS.*****SUMMARY**

This bill increases civil and criminal penalties for various offenses related to cigarette and tobacco products sales.

Among other things, the bill increases, from a class D to a class C felony, the penalties for:

1. repeat violations of the cigarette shipment or transport law;
2. willful attempt to evade cigarette taxes or failing to pay the taxes on 20,000 or more cigarettes;
3. illegal sales of untaxed tobacco products that would be taxed at least \$2,500 and willful attempt to evade tobacco products taxes or failing to pay tobacco product taxes of \$2,500 or more; and
4. willful delivery or disclosure to the Department of Revenue Services (DRS) of fraudulent or false cigarette or tobacco products tax documents.

By law, a class D felony is punishable by up to five years in prison, a fine of up to \$5,000, or both, while a class C felony is punishable by up to 10 years in prison, a fine of up to \$10,000, or both.

The bill increases penalties for selling (1) cigarettes or taxed tobacco products without a DRS license, (2) untaxed cigarettes or tobacco products, and (3) improperly packaged cigarettes. It also (1) expands the definition of racketeering activity under the Corrupt Organizations and Racketeering Act (CORA) to include willfully attempting to evade

cigarette taxes or failing to pay the taxes on 20,000 or more cigarettes and (2) removes from the definition possessing, transporting for sale, selling, or offering for sale 20,000 or more cigarettes in certain stamped or illegally stamped packages.

Under specified conditions, the bill also allows funeral directors and embalmers whose national board examination scores were invalidated to complete 45 extra hours of continuing education, instead of retaking the examination, in order to avoid disciplinary action.

Lastly, the bill exempts from the tobacco products tax cigars that are (1) exported from Connecticut and (2) owned by a distributor located on the premises of a company performing “fulfillment services” for the distributor.

*House Amendment “A” adds the provisions on (1) funeral directors and embalmers and (2) exported cigars.

EFFECTIVE DATE: July 1, 2018, except the funeral director and embalmer provisions are effective upon passage.

§ 1 — ILLEGALLY SHIPPING OR TRANSPORTING CIGARETTES

The bill increases, from a class D to a class C felony, the penalty for second or subsequent violations of the cigarette shipping and transporting law. The law:

1. prohibits companies that sell cigarettes from shipping them to anyone in Connecticut who is not (a) a state-licensed cigarette distributor or dealer, (b) an export warehouse proprietor or customs bonded warehouse operator, or (c) a local, state, or federal government employee, officer, or agent acting within his or her official duties;
2. prohibits common or contract carriers or anyone else from knowingly delivering cigarettes to a residence or to someone in Connecticut they reasonably believe is not one of the entities authorized to receive them;

3. requires sellers to plainly and visibly mark packages with the word “cigarettes” when they do not ship them in the cigarette manufacturer’s original container or wrapping; and
4. requires sellers shipping cigarettes to make delivery to an authorized recipient conditional on the recipient’s signing an acknowledgement of receipt and presenting proper proof of age.

By law, unchanged by the bill, a first violation of these provisions is a class A misdemeanor.

The bill also increases, from \$5,000 to \$10,000, the maximum civil penalty the DRS commissioner may impose for each shipment or delivery of cigarettes that violates these provisions.

§ 2 — SALE OF CIGARETTES OR TAXED TOBACCO PRODUCTS WITHOUT A DRS LICENSE

The bill increases the penalties for selling, offering to sell, or possessing with intent to sell cigarettes or taxed tobacco products without a license from DRS. Taxed tobacco products include snuff, cigars, cheroots, pipe tobacco, and similar products.

Under current law, the penalty for each knowing violation is a fine of up to \$500, up to three months in jail, or both. The bill increases the penalty to a fine of up to \$1,000, up to six months in jail, or both. As under existing law, each day of unauthorized operation may be counted as a separate offense.

In the case of a cigarette dealer who operates for up to 90 days after his or her license expires, the bill increases the penalty from an infraction, with a \$90 fine, to a \$350 fine.

§ 3 — SALE OF UNSTAMPED CIGARETTES

Under current law, it is generally illegal to sell, offer or display for sale, or possess with intent to sell cigarettes without the required Connecticut tax stamp. The bill additionally makes it illegal to transport cigarettes for sale under these same conditions.

Under current law, the penalty for any knowing violation of the stamp requirements is a fine of up to \$1,000, up to a year in prison, or both (except for certain licensed dealers, as described below). The bill increases the penalty for knowing violations involving more than 1,000 cigarettes. Under the bill, the penalty is:

1. a fine of up to \$1 per cigarette, up to a year in prison, or both, if the violation involves from 1,001 to 19,999 unstamped cigarettes and
2. a fine of up to \$1.50 per cigarette, up to five years in prison, or both, if the violation involves 20,000 or more unstamped cigarettes.

Under current law, the penalty for possessing, transporting for sale, selling, or offering for sale 20,000 or more cigarettes (1) in unstamped or illegally packaged stamped packages or (2) that may not legally be stamped, is a class D felony, punishable by a fine of up to \$5,000, up to five years in prison, or both.

The bill also increases, from a class D to a class C felony, the penalty for willfully attempting to evade cigarette taxes or failing to pay the taxes on 20,000 or more cigarettes.

§§ 4 & 7 — CIGARETTE OR TOBACCO PRODUCTS TAX FRAUD

The bill increases, from a class D to a class C felony, the penalty, under both the cigarette and tobacco products tax laws, for willfully delivering or disclosing to the DRS commissioner any list, report, account, statement, or other document known to be fraudulent or false in any material matter. This penalty is in addition to any other penalty the law provides.

§ 5 — CIGARETTE PACKAGING VIOLATIONS

The law prohibits the sale of cigarettes in any form other than in sealed packages of 20 or more that bear the federally required health warning (i.e., loose cigarettes). The bill increases the civil penalty for violations of this law from (1) \$50 to \$150 for a first offense, (2) \$250 to

\$500 for a second, and (3) \$500 to \$1,000 for a third or subsequent offense. It also subjects any violators, rather than just dealers and distributors, to the penalty. But as under existing law, dealers and distributors who violate these provisions are subject to license suspension or revocation.

The bill also deems any cigarettes sold in violation of this law to be contraband and subject to confiscation.

§ 6 — SALE OF UNTAXED TOBACCO PRODUCTS

Under current law, anyone, other than a licensed distributor or importer, who knowingly manufactures, buys, imports, receives, or acquires any untaxed tobacco products is subject to a fine of up to \$500, up to three months in jail, or both, for each offense. The bill increases the fine to \$750.

The bill also increases, from a class D to a class C felony, the penalty for (1) transporting for sale, selling, or offering for sale untaxed tobacco products that would be taxed at least \$2,500 or (2) willfully attempting to evade the tobacco products tax or failing to pay the taxes on products that would be taxed at least \$2,500.

§ 8 — RACKETEERING ACTIVITY

The bill expands the definition of racketeering activity under CORA to include willfully attempting to evade cigarette taxes or failing to pay the taxes on 20,000 or more cigarettes. In doing so, it subjects a person or entity that engages in a pattern of this violation to prosecution under CORA. The bill also removes from the definition of racketeering activity possessing, transporting for sale, selling, or offering for sale 20,000 or more cigarettes (a) in any unstamped or illegally packaged stamped packages or (b) that the law prohibits from bearing a tax stamp (see § 3 above).

CORA subjects violators to (1) one to 20 years in prison, a fine of up to \$25,000, or both; (2) forfeiture of property acquired, maintained, or used in violation of CORA, including profits, appreciated value, and

sale proceeds; and (3) forfeiture of any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise the violator established, operated, controlled, conducted, or participated in to violate CORA. Violators are also subject to the fines and penalties associated with the underlying crimes.

§ 9 — FUNERAL DIRECTORS AND EMBALMERS

The bill expands the circumstances under which funeral directors and embalmers are protected from disciplinary actions based on the invalidation of their national board examination score.

Existing law prohibits the Department of Public Health (DPH) and the Connecticut Board of Examiners of Embalmers and Funeral Directors from taking disciplinary action against any funeral directors or embalmers notified on or before October 1, 2017 that their scores were invalidated, if the licensee retakes and passes the exam by October 1, 2018.

The bill additionally prohibits DPH or the board from taking related disciplinary action against any such individual who completes 45 hours of continuing education and submits certificates of course completion to DPH by July 1, 2019. These 45 hours of continuing education must be in addition to the standard continuing education requirement for these professions (six hours annually).

At least six of the 45 hours must be in ethics, and the remainder must be in areas related to the licensee's practice, such as bereavement care, business management and administration, religious customs and traditions related to funerals, cremation or cemetery services, natural sciences, preneed services, restorative arts and embalming, counseling, funeral service merchandising, sanitation and infection control, organ donation, or hospice care. The continuing education must consist of courses offered or approved by the Academy of Professional Funeral Service Practice, educational offerings sponsored by a licensed health care institution, or courses offered by a regionally accredited higher

education institution.

Under current law, if a licensee with such an invalidated score fails to retake and pass the exam by October 1, 2018, his or her license is annulled, subject to the Uniform Administrative Procedure Act. Under the bill, this applies if the licensee fails to retake the exam by that date or complete the 45 hours of continuing education by July 1, 2019.

§ 10 — TOBACCO PRODUCTS TAX EXEMPTION FOR CERTAIN EXPORTED CIGARS

The bill exempts from the tobacco products tax cigars that are (1) exported from Connecticut and (2) owned by a distributor located on the premises of a company performing “fulfillment services” for the distributor. A company provides “fulfillment services” when it receives orders from a distributor or its agent, fills them with the distributor's inventory stored on its premises, and ships them to the distributor's customers. By law, exported tobacco products are already exempt from the tobacco products tax and any taxes paid on products that are subsequently exported may be refunded.

Under the bill, cigars owned by such distributors are subject to the tax if they are shipped, delivered, or transferred to a Connecticut address. The tax must be (1) imposed on the date the cigars are shipped, delivered, or transferred and (2) reported and paid on the tobacco products tax return corresponding to the month the shipment, delivery, or transfer occurred.

The bill authorizes the DRS commissioner to require the fulfillment company to file a quarterly informational return, containing the information the commissioner prescribes, for the cigars located on the company's premises.

BACKGROUND

Related Bill

sSB 10, favorably reported by the Finance, Revenue and Bonding

Committee, contains an identical provision exempting certain exported cigars from the tobacco products tax.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 51 Nay 0 (04/05/2018)